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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/783,251	02/20/2004	Laura C. Blumberg	PC25698A	1409
28523	7590	11/16/2006	EXAMINER	
PFIZER INC. PATENT DEPARTMENT, MS8260-1611 EASTERN POINT ROAD GROTON, CT 06340			MOORE, SUSANNA	
			ART UNIT	PAPER NUMBER
			1624	

DATE MAILED: 11/16/2006

Please find below and/or attached an Office communication concerning this application or proceeding.

Office Action Summary	Application No. 10/783,251	Applicant(s) BLUMBERG ET AL.	
	Examiner Susanna Moore	Art Unit 1624	

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 1 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 20 October 2006.
- 2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 1-15 is/are pending in the application.
- 4a) Of the above claim(s) _____ is/are withdrawn from consideration.
- 5) ☐ Claim(s) _____ is/are allowed.
- 6) ☐ Claim(s) _____ is/are rejected.
- 7) ☐ Claim(s) _____ is/are objected to.
- 8) ☒ Claim(s) 1-15 are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on _____ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some * c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
2. ☐ Certified copies of the priority documents have been received in Application No. _____.
3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- | | |
|--|---|
| 1) <input type="checkbox"/> Notice of References Cited (PTO-892) | 4) <input type="checkbox"/> Interview Summary (PTO-413) |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948) | Paper No(s)/Mail Date. _____ |
| 3) <input type="checkbox"/> Information Disclosure Statement(s) (PTO/SB/08) | 5) <input type="checkbox"/> Notice of Informal Patent Application |
| Paper No(s)/Mail Date _____ | 6) <input type="checkbox"/> Other: _____ |

DETAILED ACTION

A new restriction requirement has been applied to the instant case. Thus, the prior restriction requirements is withdrawn.

Election/Restrictions

Restriction to one of the following inventions is required under 35 U.S.C. 121:

- I. Claims 1-15, drawn to compounds of formula (I), wherein R4 and R6 form imidazopyrimidines, method of treatments and compositions thereof, classified in class 544, subclass 350 and class 514, subclass 249.
- II. Claims 1-15, drawn to compounds of formula (I), wherein R4 and R6 form imidazopyridines, method of treatments and compositions thereof, classified in class 546, subclass 121 and class 514, subclass 300.
- III. Claims 1-15, drawn to compounds of formula (I), wherein R4 and R6 form imidazothiadiazoles, method of treatments and compositions thereof, classified in class 548, subclass 126 and class 514, subclass 363.
- IV. Claims 1-15, drawn to compounds of formula (I), wherein R4 and R6 form imidazothiazoles, method of treatments and compositions thereof, classified in class 548, subclass 154 and class 514, subclass 368.

- V. Claims 1-15, drawn to compounds of formula (I), wherein R4 and R6 form imidazoimidazoles, method of treatments and compositions thereof, classified in class 548, subclass 303.1 and class 514, subclass 393.
- VI. Claims 1-15, drawn to compounds of formula (I), wherein R4 and R6 form any other fused heteroaromatic bicycle not covered by groups I-V, method of treatments and compositions thereof, the classification dependent on the heteroaromatic group elected.

The inventions are distinct, each from the other because of the following reasons:

Groups I-VI are independent and distinct from each other as they are drawn to compounds of formula (I). Group (I) encompasses bicyclic compounds of formula (I), wherein R4 and R6 form a six-membered aromatic ring with a nitrogen, imidazopyrimidines. Group (II) is drawn to bicyclic compounds of formula (I), wherein R4 and R6 form a six-membered aromatic ring, imidazopyridines. Group (III) encompasses bicyclic compounds of formula (I), wherein R4 and R6 form a five-membered aromatic ring with a sulfur and nitrogen, imidazothiadiazoles. Group (IV) is drawn to bicyclic compounds of formula (I), wherein R4 and R6 form a five-membered aromatic ring with a sulfur, imidazothiazoles. Group (V) is drawn to bicyclic compounds of formula (I), wherein R4 and R6 form a five-membered aromatic ring with a nitrogen, imidazoimidazoles. Group (VI) encompasses bicyclic compounds of formula (I) that are not covered by groups (I-V), e.g. imidazo[1,2-b][1,2,4,5]oxatriazoles.

Each of groups I-VI are directed to compounds which are recognized in the art as being

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distinct from one another because of their diverse chemical structure, their different chemical properties, modes of actions, different effects, and reactive conditions. It is noted that a reference disclosing a compound of one group would not necessarily disclose a compound of the other two groups. Additionally, the level of skill in the art is not such that one invention would be obvious over the other, i.e. they are patentable over each other. Chemical structures that are similar are presumed to function similarly, while chemical structures that are not similar are not presumed to function similarly. The presumption even for similar chemical structures though is not irrefutable, but may be overcome by scientific reasoning or evidence showing that the structure of the prior art would not have been expected to function as the structure of the claimed invention. Thus, by virtue of the different structures presented in groups I-VI, these inventions are distinct. Note that in accordance with the holding of *Application of Papesch*, 50 CCPA 1084, 315 F.2d 381, 137 USPQ 43 (CCPA 1963), and *In re Lalu*, 223 USPQ 1257 (Fed. Cir. 1984), chemical structures are patentably distinct where structures are either not structurally similar, or the prior art fails to suggest a function of a claimed compound would have been expected from a similar structure.

Because these inventions are distinct for the reasons given above and the search required for group I is not required for groups II-VI, restriction for examination purposes as indicated is proper. Groups I-VI are not identically classified under U.S. Patent Classification guidelines, thus, to search them together would present a search burden on the Examiner. Moreover, the searches in non-patent literature databases are extensive and do not overlap thus presenting a search burden to be searched together. Thus, groups I-VI have been appropriately restricted on

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the basis of being both independent or distinct and presenting a search burden on the Examiner if they were to be searched together.

Election

A telephone call was made to Rosanne Goodman on November 9, 2006 to request an oral election to the above restriction requirement, but did not result in an election being made.

Applicant is advised that the reply to this requirement to be complete must include (i) an election of a species or invention to be examined even though the requirement be traversed (37 CFR 1.143) and (ii) identification of the claims encompassing the elected invention.

The election of an invention may be made with or without traverse. To reserve a right to petition, the election must be made with traverse. If the reply does not distinctly and specifically point out supposed errors in the restriction requirement, the election shall be treated as an election without traverse.

Should applicant traverse on the ground that the inventions are not patentably distinct, applicant should submit evidence or identify such evidence now of record showing the inventions or species to be obvious variants or clearly admit on the record that this is the case. In either instance, if the examiner finds one of the inventions unpatentable over the prior art, the evidence or admission may be used in a rejection under 35 U.S.C.103(a) of the other invention.

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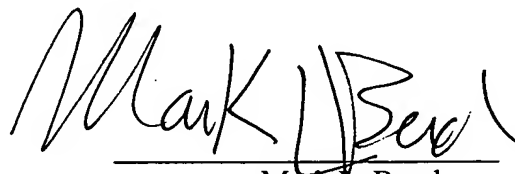
Conclusion

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Susanna Moore whose telephone number is (571) 272-9046. The examiner can normally be reached on M-F 8:00-5:00 pm.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, James Wilson can be reached on (571) 272-0661. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free). If you would like assistance from a USPTO Customer Service Representative or access to the automated information system, call 800-786-9199 (IN USA OR CANADA) or 571-272-1000.

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Mark L. Berch
Primary examiner
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